

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

RICHARD MEYER,

Plaintiff,

v.

MARK WAID,

Defendant.

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CASE NO. 1:18-CV-00800-LY

**UNOPPOSED MOTION FOR EXTENSION
OF DEADLINE TO FILE TCPA MOTION**

Defendant Mark Waid files this Unopposed Motion for Extension of Deadline to File TCPA Motion, and in support thereof shows as follows:

1. Defendant Mark Waid (“Defendant”) filed a Motion to Dismiss for Lack of Personal Jurisdiction on Nov. 2, 2018. Therefore, Defendant’s position is that this lawsuit should be dismissed because the Court does not have personal jurisdiction over him. Plaintiff contests Defendant’s jurisdictional position.

2. Defendant was served on September 21, 2018. Therefore, under the terms of the Texas Citizens Participation Act (“TCPA”), a motion to dismiss under the TCPA would be due on November 20, 2018. *See* Tex. Civ. Prac. & Rem. Code § 27.003 (motion must be filed not later than on the 60th day after the date of service of the action). Defendant believes he would have a valid motion under the TCPA, if it was found that the Court does have personal jurisdiction over him. *See id.* §§ 27.001 et seq.

3. Because Defendant’s position is that the Court lacks personal jurisdiction, Defendant believes the more efficient approach is to extend the deadline for any TCPA motion to

14 days after an order by the Court deciding the Defendant's jurisdictional motion (i.e., denying in whole or in part the motion). If the Court dismisses for lack of jurisdiction, the parties would not need to engage in the expense of motion practice under the TCPA; if the Court finds there is jurisdiction, the issue of the TCPA could then be raised and addressed.

4. The TCPA permits the court to extend the 60-day deadline. *See* Tex. Civ. Prac. & Rem. Code § 27.003(b). Because of Defendant's pending challenge to personal jurisdiction and because he believes the Court lacks the authority to hear this case on jurisdictional grounds, there is good cause to extend this TCPA deadline.

CERTIFICATE OF CONFERENCE

Undersigned counsel for Defendant has conferred with Plaintiff's counsel, and Plaintiff does not oppose the requested extension of time to file any TCPA motion as sought in this motion. Plaintiff, however, preserves all other defenses and arguments in response to any TCPA motion.

PRAYER

Defendant's position is that the Court lacks personal jurisdiction over him. For that reason, Defendant requests that the Court extend the deadline to file any motion to dismiss under the TCPA to 14 days after an order by the Court denying (in whole or in part) the Defendant's Motion to Dismiss for Lack of Personal Jurisdiction. For clarity, the 14-day period would not begin to run on a magistrate's report and recommendation, but only on the Court's order on that report and recommendation.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that the Court sign the attached order granting the extension requested herein.

Respectfully submitted,

REEVES & BRIGHTWELL LLP

/s/ Ryan Pierce

Beverly Reeves
State Bar No. 16716500
breeves@reevesbrightwell.com
Ryan Pierce
State Bar No. 24035413
rpierce@reevesbrightwell.com
221 W. 6th Street, Suite 1000
Austin, TX 78701-3410
512.334.4500 Telephone
512.334.4492 Facsimile

Mark S. Zaid, Esq.
D.C. Bar #440532 (admitted *Pro Hac Vice*)
Mark@MarkZaid.com
Mark S. Zaid, P.C.
1250 Connecticut Ave., N.W., Suite 700
Washington, D.C. 20036
(202) 454-2809
(202) 330-5610 fax

**ATTORNEYS FOR DEFENDANT
MARK WAID**

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November 2018, a true and correct copy of the foregoing document was sent via CM/ECF electronic filing to the following:

Daniel H. Byrne
Dale L. Roberts
Fritz, Byrne, Head & Gilstrap, PLLC
221 W. 6th Street, Suite 960
Austin, TX 78701
dbyrne@fbhg.law
droberts@fbhg.law

/s/ Ryan Pierce

Ryan Pierce